

**SENATE COMMERCE COMMITTEE AMENDMENT**

**AMENDMENT NO.** \_\_\_\_\_

\_\_\_\_\_  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 193 House Bill No. 520**

by deleting Sections 1 through 9 of the printed bill in their entirety and substituting instead the following new sections:

SECTION 1. Tennessee Code Annotated, Section 61-1-101, is amended by deleting the language "and" at the end of subsection (5), by deleting the punctuation "." (period) at the end of subsection (6) and substituting instead the punctuation ";", and by adding new subsections (6) and (7) to read as follows:

(6) "Registered limited liability partnership" means a partnership formed pursuant to an agreement governed by the laws of this state, registered under and complying with Section 9 of this act; and

(7) "Foreign registered limited liability partnership" means a registered limited liability partnership formed pursuant to an agreement governed by the laws of another jurisdiction and registered under the laws of such jurisdiction.

SECTION 2. Tennessee Code Annotated, Section 61-1-105(a), is amended by adding the language "and includes, for all purposes of the laws of this state, a registered limited liability partnership" after the word "profit".

SECTION 3. Tennessee Code Annotated, Section 61-1-114, is amended by deleting the language "All partners are liable" and by substituting instead the language "(a) Except as provided in subsection (b) of this section, all partners are liable", and by adding the following new subsections (b), (c), (d) and (e):

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(b) Subject to subsection (c) of this section, a partner in a registered limited liability partnership is not liable, directly or indirectly (including by way of indemnification, subrogation, contribution, assessment or otherwise), for debts, obligations and liabilities of or chargeable to the partnership or another partner, whether in tort, contract, or otherwise, arising from omissions, negligence, wrongful acts, misconduct or malpractice committed while the partnership is a registered limited liability partnership and in the course of the partnership business by another partner or an employee, agent, or representative of the partnership.

(c) Subsection (b) of this section shall not affect the liability of a partner in a registered limited liability partnership for his own omissions, negligence, wrongful acts, misconduct or malpractice, or that of any person under his direct supervision and control.

(d) A partner in a registered limited liability partnership is not a proper party to a proceeding by or against a registered limited liability partnership, the object of which is to recover damages or enforce the obligations arising out of the acts, omissions, malpractice or misconduct of the type described in subsection (b) of this section, unless such partner is personally liable under paragraph (c) of this section.

(e) Unless otherwise agreed, a partner who receives a distribution from a registered limited liability partnership or a partner who votes for or assents to such

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distribution shall have no liability for such distribution under this act or any other applicable law for the amount of the distribution after the expiration of three (3) years from the date of the distribution.

SECTION 4. Tennessee Code Annotated, Section 61-1-117(1), is amended by adding the language "except as provided in Section 61-1-114(b) of this title, each partner" after the language "are satisfied, and".

SECTION 5. Tennessee Code Annotated, Section 61-1-133, is amended by deleting the word "or" at the end of Section 61-1-133(1), by deleting the period at the end of Section 61-1-133(2) and by substituting instead thereof the language "; or", and by adding a new subsection (3) to read as follows:

(3) The liability is for a debt, obligation or liability for which the partner is not liable as provided in Section 61-1-114(b) of this title.

SECTION 6. Tennessee Code Annotated, Section 61-1-135(d), is amended by deleting the language "all" and by substituting instead the language "those", and by adding the language "and for which he was liable under Section 61-1-114 of this title" after the language "while he was a partner".

SECTION 7. Tennessee Code Annotated, Section 61-1-139(1)(B), is amended by deleting the language "necessary for the payment of all the liabilities", and by deleting the punctuation and figure (2) and by substituting instead the language "(4)".

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SECTION 8. Tennessee Code Annotated, Section 61-1-139(4), is amended by adding at the beginning of the subsection, the language "Except as provided in Section 61-1-114(b) of this title: (a)", and by deleting the language "but if" between the language "liabilities," and "any" and by substituting instead the language "and (b) if".

SECTION 9. Tennessee Code Annotated, Title 61, Chapter 1, is amended by adding thereto the following new sections to be appropriately designated:

Section \_\_\_\_.

(a) To become a registered limited liability partnership, a partnership shall file with the secretary of state an application stating the name of the partnership; the address of its principal office; if the partnership's principal office is not located in this state, the address of a registered office and the name and address of a registered agent for service of process in this state, which the partnership will be required to maintain; a brief statement of the business in which the partnership engages; and other matters that the partnership determines to include; and that the partnership thereby applies for status as a registered limited liability partnership.

(b) The application shall be executed by one or more partners authorized to execute an application. The registration of a general partnership or limited partnership as a registered limited liability partnership must be approved in the case of a general partnership by a majority of the

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partners or as otherwise provided in the partnership agreement or, in the case of a limited partnership, by all of the partners, notwithstanding any provision to the contrary in the limited partnership agreement, unless such limited partnership was formed after July 1, 1995, and the original agreement of limited partnership provided for a conversion or a procedure of conversion of the limited partnership to a registered limited liability partnership without the consent of all partners, in which case the approval or procedure under the original limited partnership agreement shall be sufficient.

(c) The application shall be accompanied by a fee of fifty dollars (\$50.00) for each partner on the date of filing subject to a minimum of two hundred fifty dollars (\$250.00) and a maximum of two thousand five hundred dollars (\$2,500.00).

(d) The secretary of state shall register as a registered limited liability partnership any partnership that submits a completed application with the required fee.

(e) A partnership registered under this section shall pay, in each year following the year in which its application is filed, on a date specified by the secretary of state, an annual fee of fifty dollars (\$50.00) for each partner on the date of filing subject to a minimum of two hundred fifty dollars

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(\$250.00) and a maximum of two thousand five hundred dollars (\$2,500.00).

The fee must be accompanied by a notice, on a form provided by the secretary of state, of any material changes in the information contained in the partnership's application for registration.

(f) A partnership becomes a registered limited liability partnership at the time of the filing of the application, or at such later time as is specified in the application, if there has been substantial compliance with the requirements of this chapter. Registration remains effective until: (1) it is voluntarily withdrawn by filing with the secretary of state a written withdrawal statement executed by one or more partners authorized to execute a withdrawal statement, which shall be accompanied by a fee of ten dollars (\$10); or (2) sixty (60) days after the secretary of state mails to the partnership at its last address of record a notice that the partnership has failed to make timely payment of the annual fee specified in subsection (e), unless the fee is paid within such a sixty (60) day period.

(g) The status of a partnership as a registered limited liability partnership and the liability of the partners thereof, shall not be affected by (1) errors in the information stated in an application under subsection (a) of this section or a notice under subsection (e) of this section, or (ii) changes

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after the filing of such an application or notice in the information stated in the application or notice.

(h) The secretary of state may provide forms for an application under subsection (a) or a notice under subsection (e) of this section.

(i) A partnership that registers as a registered limited liability partnership shall not be deemed to have dissolved as a result thereof and is for all purposes the same partnership that existed before the registration and continues to be a partnership under the laws of this state.

(j) If a registered limited liability partnership dissolves and the business of the partnership is continued without winding-up or liquidation of the partnership affairs, the partnership which continues the business of the dissolved partnership is a registered limited liability partnership and shall not be required to file a new application and shall be deemed to have filed any documents required or permitted under this chapter which were filed by the predecessor partnership.

(k) If a registered limited liability partnership dissolves and the business of the partnership is not continued, then during the wind-up or liquidation period the partners of such partnership shall continue to be subject to the provisions of section 61-1-114(b)-(e).

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(l) If a partnership registers as a registered limited liability partnership, a partner (in the case of a general partnership), or a general partner (in the case of a limited partnership), remains liable for an obligation incurred by the partnership before the partnership registered as a registered limited liability partnership. The partner's liability for obligations and liabilities of the registered limited liability partnership incurred after registration is as provided in 61-1-114 of this title.

(m) The fact that an application or notice is on file in the office of the secretary of state is notice that the partnership is a registered limited liability partnership and is notice of all other facts set forth in the application or notice.

(n) A registered limited liability partnership may amend its registration by filing with the secretary of state a statement of amendment containing the name of the partnership, the address of its principal office or registered office in this state, and the amendment. The statement of amendment shall be accompanied by a fee of \$10.

(o) The secretary of state may furnish upon request and payment of a fee of \$10 a certificate of good standing indicating that a registered limited liability partnership is registered in good standing.



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Section \_\_\_\_

(a) Each registered limited liability partnership, including foreign registered limited liability partnerships, must continuously maintain in this state:

(1) A registered office that may be the same as any of its places of business in this state; and

(2) A registered agent, who may be: a partner or any other individual who resides in this state, a domestic corporation, a not-for-profit domestic corporation, a registered limited liability partnership, a limited liability company, or a foreign corporation, not-for-profit foreign corporation, qualified foreign registered limited liability partnership, or limited liability company authorized to transact business in this state. The registered agent must maintain a business office that is identical with the registered office. The registered agent may be designated by title.

(b) If a registered agent resigns or is unable to perform such agent's duties, the registered limited liability partnership shall promptly designate another registered agent to the end that it shall at all times have a registered agent in this state.

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(c) A registered limited liability partnership may change its registered office or registered agent by delivering to the secretary of state for filing a statement of change that sets forth:

(1) The name of the registered limited liability partnership;

(2) If the current registered office is to be changed, the street address of the new registered office and the zip code for such office and the county in which the office is located;

(3) If its current registered agent is to be changed, the name or title of its new registered agent; and

(4) That after the change or changes are made, the street addresses of its registered office and the business office of its registered agent will be identical.

(d) If a registered agent changes the street address of such registered agent's business office, such registered agent may change the street address of the registered office of any registered limited liability partnership for which such registered agent is the registered agent by notifying the registered limited liability partnership in writing of the change and signing (either manually or in facsimile) and delivering to the secretary of state for filing a statement that complies with the requirements of

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subsection(a) and recites that the registered limited liability partnership has been notified of the change.

(e) A registered agent of a registered limited liability partnership may resign such agent's agency appointment by signing and filing with the secretary of state an original statement of resignation accompanied by such agent's certification that such agent has mailed a copy thereof to the principal office of the registered limited liability partnership by certified mail. The statement may include a statement that the registered office is also discontinued.

(f) The agency appointment is terminated, and the registered office discontinued if so provided, on the date on which the statement is filed by the secretary of state.

Section \_\_\_\_.

(a) A registered limited liability partnership or foreign registered limited liability partnership name must contain the words "registered limited liability partnership," or the abbreviation "L.L.P." or "LLP" or words or abbreviations of like import in another language; provided, that they are written in roman characters or letters; and provided further, that, in the case of a foreign registered limited liability partnership, the name may contain, in

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lieu of the foregoing, the designations allowed by the jurisdiction in which the foreign registered limited liability partnership was registered.

(b) Except as authorized by subsection (c), a registered limited liability partnership name must be distinguishable upon the records of the secretary of state from:

(1) The name of a registered limited liability partnership or limited liability company organized to do business in this state or a foreign registered limited liability partnership or foreign limited liability company authorized to do business in this state;

(2) A registered limited liability partnership or foreign registered limited liability partnership or limited liability company or foreign limited liability company name reserved or registered under this section or § 48-207-102 or § 48-207-103;

(3) The corporate name or assumed corporate name of a corporation incorporated or authorized to transact business in this state;

(4) A corporate name or an assumed corporate name reserved or registered under § 48-14-102 or § 48-14-103;

(5) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; and

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(6) A limited partnership name of a limited partnership organized under the laws of this state, if the use of such name is evidenced by a filing at the office of the secretary of state, or a limited partnership name reserved under the law of this state, or a limited partnership name of a limited partnership registered as a foreign limited partnership in this state, or a foreign limited partnership name reserved under the law of this state.

(c) A registered limited liability partnership may apply to the secretary of state for authorization to use a name that is not distinguishable upon the secretary of state's records from one (1) or more of the names described in subsection(b). The secretary of state shall authorize use of the indistinguishable name applied for if:

(1) The other registered limited liability partnership, limited liability company, corporation, limited partnership or other entity consents to the use in writing and submits an undertaking in a form satisfactory to the secretary of state to waive its reservation or change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying registered limited liability partnership;

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(2) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state;

(3) The other registered limited liability partnership, limited liability company, corporation, limited partnership or other entity is under common control with the registered limited liability partnership; consents to the use in writing; and both the other corporation, limited partnership or other entity and the registered limited liability partnership consent in a form satisfactory to the secretary of state to use the same registered agent; or

(4) In the case of a registered limited liability partnership or foreign registered limited liability partnership, the name of the partnership is composed solely of the names of partners in the partnership

(d) A person may reserve the exclusive use of a registered limited liability partnership or foreign registered limited liability partnership name, including an assumed name, by delivering an application to the secretary of state for filing. The application must set forth the name and address of the applicant and the name proposed to be reserved. If the

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secretary of state finds that the registered limited liability partnership name applied for meets the requirements of this section and is available, the secretary of state shall reserve the name for the applicant's exclusive use for a four-month period. Upon the expiration of the four-month period, the same or any other party may apply to reserve the same name.

(e) The owner of a reserved registered limited liability partnership name, including an assumed name, may transfer the reservation to another person by delivering to the secretary of state a notice of the transfer signed by the owner that states the name and address of the transferee.

(f) The reservation of a specific name may be canceled by filing with the secretary of state a notice, executed by the applicant or transferee, specifying the name reservation to be canceled and the name and address of the applicant or transferee.

Section \_\_\_\_.

(a) A partnership, including a registered limited liability partnership, formed and existing pursuant to an agreement governed by this chapter, may conduct its business, carry on its operations, and have and exercise the powers granted by this chapter in any state, territory, district, or possession of the United States or in any foreign country.

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(b) It is the intent of the legislature that the legal existence of a registered limited liability partnership formed and existing pursuant to an agreement governed by this chapter be recognized outside the boundaries of this state and that the laws of this state governing such registered limited liability partnerships transacting business outside this state be granted the protection of full faith and credit under the Constitution of the United States.

(c) The internal affairs of a partnership, including registered limited liability partnerships, formed and existing pursuant to an agreement governed by this chapter, including the liability of partners for debts, obligations and liabilities of or chargeable to the partnership, shall be subject to and governed by the laws of this state.

(d) Before transacting business in this state, a foreign registered limited liability partnership shall (1) comply with any statutory or administrative registration or filing requirements governing the specific type of business in which the partnership is engaged, and (2) file a notice with the secretary of state, on such forms as the secretary shall provide, stating: the name of the partnership; the jurisdiction the laws of which govern its partnership agreement and under which it is registered as a registered limited liability partnership; the address of its principal office; if the partnership's principal office is not located in this state, the address of an



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office in this state and the name and address of a registered agent for service of process in this state; a brief statement of the business in which the partnership engages; any other information that the partnership determines to include; and a statement that the partnership is a registered limited liability partnership. Such notice shall be accompanied by a fee of fifty dollars (\$50.00) for each partner on the date of filing subject to a minimum of two hundred fifty dollars (\$250.00) and a maximum of two thousand five hundred dollars (\$2,500.00). Such notice shall be effective for two (2) years from the date of filing, after which time the partnership shall file a new notice.

(e) It is the policy of this state that the internal affairs of foreign registered limited liability partnerships, and the liability of partners for debts, obligations and liabilities of or chargeable to partnerships, shall be subject to and governed by the laws of such other jurisdiction.

(f) A foreign registered limited liability partnership registered to transact business in this state may withdraw from this state by filing with the office of the secretary of state a statement of withdrawal as a foreign registered limited liability partnership, which shall set forth the information stated in its most recent notice: that the foreign registered limited liability partnership is not transacting business in this state and that it surrenders its registration to transact business in this state; that the foreign registered

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limited liability partnership revokes the authority of its registered agent in this state to accept service of process and appoints the secretary of state as its agent for service of process in any action, suit, or proceeding based upon any cause of action arising during the time the foreign registered limited liability partnership was registered to transact business in this state; and a mailing address to which the secretary of state may mail a copy of any process served on him in his capacity as agent for such registered limited liability partnership.

(g) A foreign registered limited liability partnership may amend its notice by filing with the secretary of state a statement of amendment containing the name of the partnership, the address of its registered office in this state, and the amendment. The statement of amendment shall be accompanied by a fee of \$10.

(h) The secretary of state may furnish upon request and payment of a fee of \$10 a certificate of good standing indicating that a foreign registered limited liability partnership has filed a notice pursuant to section \_\_\_\_\_ and is in good standing in this state as a foreign registered limited liability partnership.

SECTION 10. Notwithstanding any other provision of law, a partnership engaged in the rendering of professional services may register as a registered limited liability

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partnership subject to (i) the laws and regulations governing the provision of professional services by partnerships and (ii) such other terms and conditions imposed by its governing professional licensing authority. Nothing in this Act shall affect the authority of professional licensing authorities, including the State Supreme Court, to regulate the practice of the professions.

AND FURTHER AMEND by redesignating Section 10 in the printed bill as Section 11.